



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No: 5027-21
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED] [REDACTED], USN,
XXX-XX-[REDACTED]

Ref: (a) 10 U.S.C. §1552
(b) SECDEF memo, "Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD," of 3 September 2014
(c) USD memo, "Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records by Veterans Claiming PTSD or Traumatic Brain Injury (TBI)," of 24 February 2016
(d) USD memo, "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment," of 25 August 2017
(e) USD memo, "Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations," of 25 July 2018

Encl: (1) DD Form 149 w/attachments
(2) Case summary
(3) Advisory opinion of 7 December 2021

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected by upgrading his discharge characterization to honorable, changing his narrative reason for separation to expiration of enlistment, changing his separation code to KBK, changing his reenlistment code to RE-1 and correcting his date of birth.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 10 January 2022 and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, and applicable statutes, regulations, and policies, and references (b) through (e), which include the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), the 24 February 2016 guidance from the Principal Deputy

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Under Secretary of Defense regarding discharge upgrade requests by Veterans claiming PTSD or traumatic brain injury (TBI) (Carson Memo), the 25 August 2017 guidance from the Under Secretary of Defense for Personnel and Readiness regarding requests by Veterans for modification of their discharge due to mental health conditions, sexual assault, or sexual harassment (Kurta Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo). Additionally, the Board considered the enclosure (3) 7 December 2021 advisory opinion (AO) furnished by a qualified mental health provider.

3. The Board, having reviewed all the facts of record pertaining to the subject former member's allegations of error and injustice, finds as follows:

a. Before applying to this Board, the Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. The Petitioner enlisted in the Navy and began a period of active duty on 17 October 1988. On 13 February 1989, the Petitioner received nonjudicial punishment for a 25 minute period of unauthorized absence. That day he was also issued a formal written warning concerning his receipt of nonjudicial punishment. On 31 March 1992, he received nonjudicial punishment for disobeying a lawful order and for communicating a threat on two occasions. That day he also received another formal written warning concerning his receipt of nonjudicial punishment. On 9 June 1992, the Petitioner received nonjudicial punishment for a three hour period of unauthorized absence.

c. On 12 June 1992, the Petitioner was notified of the initiation of administrative separation processing and his rights in connection therewith. He elected to have his case heard before an administrative discharge board. His administrative discharge board hearing was held on 2 October 1992, and the board found that he had not committed a serious offense but found that he did engage in a pattern of misconduct, that he should be discharged, and that his characterization of service should be general (under honorable conditions). On 9 October 1992, the separation authority directed that the petitioner be discharged with a general (under honorable conditions) characterization of service, and on 11 October 1992 he was so discharged.

d. When the Petitioner was discharged he was issued a Certificate of Release or Discharge from Active Duty (DD Form 214), which reflects his date of birth to be [REDACTED]. The Petitioner requests that his date of birth be corrected to [REDACTED], which date corresponds with other of the Petitioner's official naval records.

e. In 2018, the Petitioner filed a petition with this Board, contending that he suffered from a mental health condition as a result of his experience in Operation [REDACTED], during which time his ship was ordered to bomb various locales in Iraq. The Board obtained an AO in connection with the Petitioner's contention, which was unfavorable. On 4 November 2019, this Board denied his petition, concurring with the findings of the AO at the time.

f. In his current petition, the Petitioner has provided additional materials in support of his contention, which is based on his mental health condition/PTSD.

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g. In light of the Petitioner's supplementation of his materials concerning his mental health condition/PTSD, the Board requested the enclosure (3) AO. The AO is considered favorable to Petitioner, explaining, in part, that:

He presented Department of Veterans Affairs (VA) information from January 2021 indicating 100% service-connected disability rating for Major Depressive Disorder (MDD) with psychotic features and Anxiety Disorder Not Otherwise Specified (claimed as PTSD). Records indicated that the VA examiner determined that the Petitioner's experience of the index stressors did not meet criteria for PTSD. However, the Petitioner provided extensive documentation of VA mental health treatment for diagnoses listed as MDD and PTSD from 2010 to 2021, to include couples counseling, medication, life coaching, group treatment, and individual psychotherapy.

In-service, the Petitioner was not diagnosed with a mental health condition. Post-service, the VA has determined service-connected disability for MDD. The Petitioner has received treatment for MDD and PTSD from the VA post-service. It is plausible that the Petitioner's disobedience and threats could be attributed to irritability associated with MDD. It is possible that brief periods of UA could be associated with lack of motivation associated with MDD.

The AO concluded, "it is my considered medical opinion that there is post-service evidence that the Petitioner may have incurred PTSD during military service. There is also post-service evidence that he incurred an unfitting mental health condition during military service, and there is evidence that his misconduct could be attributed to an unfitting mental health condition."

CONCLUSION

Upon review and consideration of all the evidence of record, and in view of references (b) through (e), as well as the enclosure (3) AO, the Board determined that the Petitioner is entitled to partial relief in the form of upgrading his discharge characterization to honorable, changing his narrative reason and authority for separation to Secretarial Authority, changing his separation code to JFF, and his reenlistment code to RE-1. The Board also determined that his date of birth should be corrected. In reaching its decision, the Board concurred with the AO's finding that the Petitioner's misconduct while on active duty could be mitigated by his experience of PTSD. The Board also determined that other naval records reflect the date of birth that the Petitioner contends is correct.

The Board's determination is considered partial in that the Petitioner requested that his narrative reason for separation and separation code be changed to end of enlistment and KBK. However, the Board determined that the appropriate narrative reason for separation and separation code should be Secretarial Authority and JFF.

Accordingly, in view of all of the matters presented, and as noted above, the Board concluded that the Petitioner's requested relief be partially granted.

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RECOMMENDATION

In view of the above, the Board directs the following corrective action: Petitioner be issued a new DD Form 214 reflecting that his characterization of service at the time of his discharge was honorable, Secretarial Authority narrative reason and authority, JFF SPD, RE-1 reenlistment code, and date of birth [REDACTED]

That no further changes be made to Petitioner's record.

A copy of this report of proceedings shall be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of the reference, has been approved by the Board on behalf of the Secretary of the Navy.

1/21/2022

[REDACTED]

Executive Director

Signed by: [REDACTED]